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ROBERT MATOS and SLOBODAN PRANJIC

FILED

DISTRICT COURT OF GUAM

OCT 17 2006

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

TCW SPECIAL CREDITS, et al.)	Case No. 96-00055
)	
Plaintiffs,)	MOTION TO ESTABLISH
)	PREJUDGMENT INTEREST AND
v.)	POST-JUDGMENT INTEREST ON
)	MATOS AND PRANJIC IN REM
FISHING VESSEL CHLOE Z,)	JUDGMENTS; AFFIDAVIT OF
Et al.,)	DWIGHT RITTER IN SUPPORT OF
)	MOTION AND MEMORANDUM OF LAW
Defendants.)	IN SUPPORT OF MOTION

Plaintiffs, ROBERT MATOS and SLOBODAN PRANJIC, by their counsel, Dwight Ritter, move to establish judgments which must now include both prejudgment interest and post-judgment interest accrued on these *in rem* judgments as a result of the 9th Circuit Court of Appeals recent ruling denying the appeals and affirming the judgments.

1. The 9th Circuit Court of Appeals denied the defendant F/V Chloe Z's appeal and affirmed MATOS and PRANJIC'S *in rem* judgments on June 5, 2006. The 9th Circuit has issued its mandate in September, 2006, and a copy was sent to the Guam

1 District Court. (Affidavit of Dwight Ritter and Exhibit 1)

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3 2. Both the MATOS and PRANJIC matters have lengthy
4 histories in the Guam District Court. MATOS was originally
5 injured on August 8, 1992 while working as a fisherman on board
6 the F/V Chloe Z. MATOS timely filed his Jones' Act and maritime
7 action in January, 1993, including both *in personam* and *in rem*
8 requests for damages. (Aff. D. Ritter; Ex.2) PRANJIC was injured
9 on November 25, 1991 while working on board the F/V Chloe Z.
10 PRANJIC timely filed his Jones Act and maritime action in June
11 of 1992, including both *in personam* and *in rem* requests for
12 damages. (Aff. D. Ritter; Ex.3) In July, 1996, both MATOS and
13 PRANJIC received *in personam* verdicts in their favor, in the
14 amount of \$ 1,497,955 and \$ 765,000 without interest,
15 respectively. These verdicts were reduced to judgments for
16 MATOS on August 13, 1996 and for PRANJIC on July 26, 1996. (Aff.
17 D. Ritter; Ex.4 and Ex.5) Defendant F/V Chloe Z appealed each
18 judgment and the 9th Circuit denied their appeals and affirmed
19 the judgments in favor of MATOS and PRANJIC, on November 7,
20 1999, and on November 6, 1999, respectively.

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22 3. In July, 1997, MATOS and PRANJIC received *in rem*
23 verdicts in their favor in the amount of \$ 621,515 for MATOS and
24 \$ 577,420 for PRANJIC. These findings were reduced to *in rem*
25 judgments for MATOS on February 19, 1999 and for PRANJIC on
26 January 11, 1999. (Aff. D. Ritter; Ex.6 and Ex.7) Defendant F/V
27 Chloe Z again appealed the *in rem* judgments and the 9th Circuit
28 issued an order on September 8, 2000 which remanded the *in rem*

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2 judgments back to the Guam District Court for an evidentiary
3 hearing related to F/V Chloe Z's assertion that the statute of
4 limitations had expired.

5 On April 8, 2004, Judge Unpingco, on behalf of the District
6 Court, ruled in favor of F/V Chloe Z and disallowed the *in rem*
7 judgments rendered in favor of plaintiff MATOS and PRANJIC.
8 MATOS and PRANJIC then appealed to the 9th Circuit Court of
9 Appeals and, recently on June 5, 2006, the 9th Circuit rendered
10 its decision upholding the *in rem* judgments and mandating that
11 the judgments be satisfied and affirmed with interest in the
12 Guam District Court. (Ex.1)

13 4. MATOS and PRANJIC, as qualified seamen under general
14 maritime law, are entitled to, two forms of interest. First,
15 they are entitled to recover "prejudgment interest" rendered
16 from the date of their initial injuries which occurred on August
17 8, 1992 for MATOS and November 25, 1991 for PRANJIC.

18 Under U.S. Supreme Court decisions and 9th Circuit
19 opinions, federal maritime law mandates that qualified seamen
20 are entitled to prejudgment interest in nearly all cases and
21 with very few and rare exceptions. The leading Supreme Court
22 decision in this regard is City of Milwaukee v. National Gypsum
23 Company, 515 U.S. 189, 115 S.Ct. 209(1995), in which the Supreme
24 Court reversed a lower court decisions denying prejudgment
25 interest and held that prejudgment interest cannot be denied to
26 a maritime claimant unless there is a very strong reason and
27 exceptional circumstances for doing so. Fault of the plaintiff
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2 is not sufficient for denial.

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4 5. To prove the calculations regarding interest, MATOS
5 and PRANJIC have retained Robert Wallace, CPA, to calculate the
6 prejudgment interest for each judgment in this matter. Mr.
7 Wallace was the duly qualified economist testifying on behalf of
8 each plaintiff in both the *in personam* and *in rem* trials in the
9 Guam District Court. The District Court has relied extensively
10 on the Mr. Wallace's opinions to render its prior judgments. Mr.
11 Wallace has calculated that MATOS is entitled to prejudgment
12 interest in the amount of \$ 235,045.00 and that PRANJIC is
13 entitled to prejudgment interest in the amount of \$ 238,129.00
14 up to and including October 1, 2006. (Aff. D. Ritter; Ex.8)

15 6. In addition, MATOS and PRANJIC are entitled to post-
16 judgment interest pursuant to 28 U.S.C. § 1961. Again, Robert
17 Wallace has calculated the amount of post-judgment interest from
18 the date of the judgment up to and including October 1, 2006.
19 MATOS is entitled to \$ 361,191.00 in post-judgment interest on
20 his *in rem* judgment and PRANJIC is entitled to \$ 334,893.00 in
21 post-judgment interest on his *in rem* judgment. (Aff. D. Ritter;
22 Ex.8)

23 7. The Guam District Court has both the authority and
24 responsibility to enter the amended amounts of the *in rem*
25 judgments, including accrued interest, and issue amended
26 judgments reflecting the full amount of the monies to which
27 MATOS and PRANJIC are entitled with priority maritime liens and
28 as wards of the court. The Guam District Court ordered the F/V

Chloe Z to be sold and the vessel was sold for approximately \$ 6,000,000. Those funds should be available in the Registry of the Guam Court for the protection of priority maritime lien holders such as MATOS and PRANJIC.


Wherefore, plaintiff MATOS and PRANJIC seek to enter in rem judgments in the Guam District Court as follows:

1. Judgment in favor of ROBERT MATOS in the amount of \$ 621,515 with accrued prejudgment interest up to and including October 1, 2006 in the amount of \$ 235,045 and post-judgment interest accrued in the amount of \$ 361,191 up to and including the date of October 1, 2006, for a total of \$ 1,217,751.

2. Judgment in favor of SLOBODAN PRANJIC in the amount of \$ 577,421 with accrued prejudgment interest up to and including October 1, 2006 in the amount of \$ 238,129, and post judgment interest accrued in the amount of \$ 334,893 up to and including the date of October 1, 2006, for a total of \$ 1,150,443.

Plaintiffs further request all other just and proper relief based upon the ruling of the 9th Circuit Court of Appeals with regards to its recent decision.

Dated: 10/9, 2006


DWIGHT F. RITTER, Esq.
Attorney for Plaintiffs,
ROBERT MATOS and
SLOBODAN PRANJIC